

ALASKA STATE LEGISLATURE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES STANDING COMMITTEE

February 21, 2006

3:44 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Paul Seaton, Vice Chair
Representative Carl Gatto
Representative Berta Gardner

MEMBERS ABSENT

Representative Tom Anderson
Representative Vic Kohring
Representative Sharon Cissna

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 312(HES)

"An Act relating to pregnant women; relating to training in fetal alcohol spectrum disorders for and to requiring certain documentation by licensed physicians, physician assistants, and nurses; requiring the Department of Health and Social Services to prepare information for distribution by hospitals, schools, service providers, and alcohol licensees and permittees about fetal alcohol spectrum disorders; clarifying that fetal alcohol spectrum disorders is a condition of public health importance; and establishing a diagnosis and treatment program, including contraceptives, for persons with a fetal alcohol spectrum disorder or alcohol dependency."

- MOVED CSHB 312(HES) OUT OF COMMITTEE

HOUSE BILL NO. 442

"An Act relating to the validity of advance health care directives, individual health care instructions, and do not resuscitate orders; relating to the revocation of advance health care directives; relating to do not resuscitate orders; relating to resuscitative measures; relating to the liability of health care providers and institutions; relating to an individual's capacity for making health care decisions; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 271(HES)

"An Act relating to limitations on overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE CONCURRENT RESOLUTION NO. 5

Relating to support of community water fluoridation.

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 312

SHORT TITLE: FETAL ALCOHOL SYNDROME/EFFECTS PREVENTION

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

01/09/06	(H)	PREFILE RELEASED 12/30/05
01/09/06	(H)	READ THE FIRST TIME - REFERRALS
01/09/06	(H)	HES, JUD, FIN
01/31/06	(H)	HES AT 3:00 PM CAPITOL 106
01/31/06	(H)	Heard & Held
01/31/06	(H)	MINUTE(HES)
02/21/06	(H)	HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

JACQUELINE TUPOU, Staff
to Representative Bruce Weyhrauch
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented CSHB 312, Version L, on behalf of Representative Weyhrauch, sponsor.

DIANE CASTO, Section Manager
Prevention and Early Intervention Section
Division of Behavioral Health (DBH)
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 312.

CHERYL SCOTT, Manager
Parent Support Grant
Division of Behavioral Health (DBH)
Stone Soup Group
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 312.

MICHAEL BALDWIN, Mental Health Clinician
Fetal Alcohol Spectrum Disorders (FASD)
MatSu Diagnostic Team
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 312.

DIANNE MACCRAE
Kasilof, Alaska

POSITION STATEMENT: Testified in support of HB 312.

RICK IANNLINO, Coordinator
Fetal Alcohol Spectrum Disorders (FASD)
Juneau Diagnostic Clinic
Central Council Tlingit Indian Tribe
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 312.

LAURA ROREM, Parent Navigator
Fetal Alcohol Spectrum Disorders (FASD)
Juneau Diagnostic Team
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 312.

LARRY ROREM, Pastor
Shepard of the Valley Lutheran Church
Juneau, Alaska

POSITION STATEMENT: Testified on HB 312.

ACTION NARRATIVE

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at [3:44:38 PM](#). Representatives Seaton, Gato, Gardner, and Wilson were present at the call to order.

HB 312-FETAL ALCOHOL SYNDROME/EFFECTS PREVENTION

[3:45:13 PM](#)

CHAIR WILSON announced that the only order of business would be HOUSE BILL NO. 312, "An Act relating to pregnant women; requiring hospitals, schools, and alcohol licensees and permittees to distribute information about fetal alcohol effects and fetal alcohol syndrome; relating to the consumption of alcoholic beverages by and the sale or service of alcoholic

beverages to a pregnant woman; requiring involuntary commitment of a pregnant woman who has consumed alcohol; creating a fund for the prevention and treatment of fetal alcohol syndrome and fetal alcohol effects; relating to fines and to the taking of permanent fund dividends for selling or serving alcoholic beverages to pregnant women; and increasing taxes on sales of alcoholic beverages to fund treatment and education related to fetal alcohol syndrome and fetal alcohol effects."

[3:45:37 PM](#)

JACQUELINE TUPOU, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, introduced the committee substitute (CS) to HB 312, on behalf of Representative Weyhrauch. She pointed out that the CS includes: an education requirement for doctors and nurses and provides for their training; direction to the Department of Health and Social Services (DHSS) to disseminate Fetal Alcohol Spectrum Disorder (FASD) educational information to schools and hospitals; and establishes an FASD diagnostic program.

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REPRESENTATIVE SEATON moved to adopt CSHB 312, Version 24-LS0241\L, Mischel, 2/21/06, as the working document. There being no objection, Version L was before the committee.

MS. TUPOU explained that Version L incorporates the specific requests and suggestions received from the committee [January 31, 2006 meeting] for the bill to include: continued education for doctors and nurses; prenatal notations from a mother's chart to be attached to an infant's record; and the creation of an FASD program.

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CHAIR WILSON requested that Ms. Tupou navigate the committee through the individual changes, for clarification and questions.

MS. TUPOU directed the committee to the first change located on, page 2, lines 13-17, which requires the "board" to establish standards for the training of physicians and physician assistants in the areas of substance abuse during pregnancy, FASD, and highlights the importance of record keeping and history taking for these conditions. Page 2, lines 19-22 provides similar language, but it pertains to nurse practitioners. In response to a question, she explained that

these requirements are to be established through the appropriate governing boards for each medical professional to receive his/her licensure or as a continuing education requirement. She stressed that the respective medical board is to adopt appropriate regulation and provide for implementation.

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REPRESENTATIVE GATTO asked how HB 312 was condensed from being twelve-pages to four pages. He pointed out the title change.

MS. TUPOU replied that this bill has been reworked multiple times. She specified that the items removed from the original bill were the provisions for: involuntary commitment of pregnant women; penalties to the alcohol/hospitality industry for sales/service to pregnant women; and FASD testing/screening of newborn infants. In regard to Table 18 provided, in the committee packet, she explained that the bottom line figure of \$47 million dollars represents the cost to the state for the 15 FASD births identified in 2003. She explained that this recent McDowell Group study determined the lifetime costs of supporting an individual born with FASD. Assuming each will receive appropriate medical and residential services, the cost per individual is estimated to be \$3.1 million.

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MS. TUPOU continued on to the changes for page 3, lines 5-12, which direct DHSS to distribute FASD educational material to schools and hospitals for disbursement to their clientele. Continuing with page 3, lines 14-19 define "service providers," and lines 21-25 provide for the registration and documentation of children with prenatal exposure to alcohol.

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CHAIR WILSON reminded the committee that previous discussion [at the January 31, 2006 meeting] indicated the importance for having the mother's prenatal records to be attached to the infant's birth record. She opined that the language in the bill does not specifically reflect a requirement for the marriage of these records.

REPRESENTATIVE GARDNER interjected that a mother may have confidential information not integral to the health of the child and such records should not be subject to disclosure that may later be discovered by that child.

MS. TUPOU agreed that it could present problems particularly with the Health Insurance Portability and Accountability Act (HIPAA) compliance.

CHAIR WILSON requested clarification of the language on page 3, line 24, regarding "documentation in a medical record of a diagnosis," and inquired as to how this could be effectively executed.

MS. TUPOU conceded that the language may need revising and suggested that a conceptual amendment would be efficacious.

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REPRESENTATIVE GARDNER offered that perhaps this issue could be addressed by adding language in the training section of the bill to encourage birth attendants to make a professional note in the child's chart if they have any suspicion that the infant has been subject to prenatal alcohol exposure or other illegal substances.

MS. TUPOU pointed out that language is already included to that effect on page 2, line 15.

REPRESENTATIVE GARDNER maintained that directive language could be included to be more specific to the need and she offered Conceptual Amendment 1 to Section 1 [to insert the following language]:

The training program should include a provision that medical professionals be required to note on the child's records any information they may have about the mother's substance use during pregnancy.

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REPRESENTATIVE SEATON objected, pointing out that being trained how to take information and making a judgment call whether to record and document information are two different scenarios. He emphasized that if the notation is not a specific requirement, the medical provider may be hesitant to record one person's information onto another person's chart.

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REPRESENTATIVE GARDNER asked whether all birth attendants would have access to the appropriate records.

CHAIR WILSON, drawing from her nursing experience, explained that, standard chart information is a routine requirement for both the mother and the child.

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MS. TUPOU pointed out that Section 7 addresses documentation to DHSS for data base analysis, and may not be the appropriate place for Conceptual Amendment 1 to be added.

REPRESENTATIVE GARDNER expressed a concern for the need to streamline accessibility to a child's health and educational information, not to add additional layers of difficulty for the retrieval of such data.

[4:01:26 PM](#)

REPRESENTATIVE SEATON removed his objection to Conceptual Amendment 1.

REPRESENTATIVE GARDNER restated Conceptual Amendment 1 as follows:

The mother's substance use or any knowledge of the mother's substance use is recorded on the child's record.

CHAIR WILSON, upon hearing no further objection, announced that the Conceptual Amendment 1 was adopted.

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MS. TUPOU explained the revisions on page 4, lines 2-5, regarding the distribution of FASD information by hospitals; and lines 9-25, requiring DHSS to establish a program for the diagnosis and treatment of FASD and providing specifications to that end.

REPRESENTATIVE GARDNER questioned whether Section 7 should be retained or deleted from the bill.

[4:03:35 PM](#)

DIANE CASTO, Section Manager, Prevention and Early Intervention Section, Division of Behavioral Health (DBH), Department of

Health and Social Services (DHSS), clarified that Section 7 refers to the current Alaska birth defects and fetal alcohol syndrome (FAS) registry. She pointed out that current statute requires health care providers to report, via an established code system, any prenatal exposure to alcohol; the data is then entered into the registry. This is required for defects identified at birth through six years of age, and it includes the documentation of a child's potential prenatal exposure to alcohol. She explained the importance of this data and how it is used, stating that Alaska leads in FAS prevalence data. This data is critical when analyzing the effectiveness of the department's relevant programs. Regarding the committee's stated concern for confidentiality, she stressed that this data cannot be linked to an individual. Additionally, she assured the committee that all children who are reported to the birth defects registry also receive a notation in their record whether the mother used alcohol during pregnancy.

REPRESENTATIVE GARDNER asked whether a newborn, who otherwise isn't identified for the birth defects registry, would be reported to DHSS if the mother is known to have consumed alcohol during pregnancy.

MS. CASTO responded that if a notation has been made in the child's record the information will be provided to the department. She then explained the effectiveness of the program. In response to a question, she described how the reporting code becomes apparent through the billing process, which is often when a referral is made to the birth defects registry. She explained that the standard of care established by the American College of Obstetricians and Gynecologists (ACOG) is to screen for alcohol use in all mothers, and to make notations on both the mother's and the baby's record. She expected that by including language in the bill to incorporate these standards, as part of the ongoing training and licensure requirements, they will be upheld. Also, many mothers who have an alcohol issue are transient and often their birth records are lost in the shuffle. However, she suspected that by making this a stronger requirement, the importance of documentation will be emphasized making it "the standard of care that is followed by everyone."

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MS. CASTO explained how this bill builds on the department's eight years of work to create a foundation for education, information, and services related to FASD. She directed the

committee's attention to Section 10, which relates to programs and obtaining an early diagnosis. She stressed that a diagnosis is necessary for a child to receive appropriate services, and stated that there are many undiagnosed adolescents and adults in Alaska's correctional facilities. The FASD training measures provided in Section 10 allow for a "fairly concise and doable process," she opined.

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REPRESENTATIVE GARDNER reported a constituent proposal to establish a statewide FAS/FASD council, with seated members representing a variety of disciplines that would hold regional meetings and regular public forums.

MS. CASTO said that a council has been discussed, but the department has determined that the current statewide committees for suicide prevention, alcohol/drug abuse, and mental health issues can elevate the importance of the FASD issue and incorporate its focus as part of their duties. She pointed out that a one-time federal grant did provide funding for an FASD steering committee, which was a benefit.

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REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 2, which read [original punctuation provided and handwritten changes incorporated]:

Page 4, following line 22, add [a] new section:

(6) provision of long duration contraception on a voluntary basis to clients of Community medical clinics, [identified by] community mental health clinics and public health nurses who are diagnosed with FASD.

CHAIR WILSON objected for discussion.

REPRESENTATIVE SEATON expressed his concern that HB 312 has an "after the fact" focus, and this amendment provides preventative measures for individuals who otherwise would have difficulty in managing/planning a healthy pregnancy.

REPRESENTATIVE SEATON stressed that contraception would be on a voluntary basis, and be a "long-term" approach to birth control versus daily administration methods.

REPRESENTATIVE GARDNER asked for clarification on exactly who would benefit from this amendment, pointing out that if an FASD diagnosis is required, a portion of the target group may be missed. She suggested that perhaps other voluntary substance abusers should be qualified for the benefit.

CHAIR WILSON, realizing that this amendment would have a fiscal note attached, asked if the sponsor wished to make a comment.

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MS. TUPOU agreed with the amendment, but conceded that it would be difficult to estimate the cost of including it in the bill; and thus she opined that it's difficult to provide an appropriate comment.

REPRESENTATIVE GATTO suggested that it be called the \$3.1 million fiscal note [as per the Table 18 statistics].

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REPRESENTATIVE GARDNER pointed out that anyone who has obtained an FASD diagnosis would be considered developmentally disabled, thus eligible for birth control measures through Medicaid, Medicare, and the Alaska Native Medical Center (ANMC). She again questioned whom this amendment would benefit.

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MS. TUPOU offered that there is an indeterminate fiscal note being prepared, which will attach to the bill for subsequent committee review.

MS. CASTO conceded that the area of prevention does need attention, and agreed that birth control measures are available through the various public health centers mentioned. However, the women who may need it most may not be utilizing the services. She described a federal grant project which partnered the Anchorage Neighborhood Health Center with the Highland Mountain Correctional Center, and related the success of that type of project in providing birth control to at-risk women. She related her support of Conceptual Amendment 2 as a clear statement of focus towards prevention of FASD births, but expressed the need to ensure that the appropriate populace will be reached. Further, she suggested the partnering of state

health agencies with state treatment facilities to facilitate appropriate contraception.

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REPRESENTATIVE GATTO inquired about the role a father's alcohol consumption plays in contributing to FASD.

MS. CASTO explained that research indicates how male drinking contributes to other prenatal and postnatal difficulties but not FASD. However, studies do indicate the critical need for a pregnant woman to have a non-drinking partner to support her in not drinking during pregnancy.

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CHAIR WILSON withdrew her objection to the amendment.

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REPRESENTATIVE SEATON proposed Amendment 1 to Conceptual Amendment 2 [which would insert the following text after FASD] to add:

"or are associated with alcohol abuse."

REPRESENTATIVE GARDNER suggested that funding problems could arise if free birth control measures were made available to any woman who proclaims that she is a substance abuser.

REPRESENTATIVE SEATON maintained that high-risk behavior could be targeted with this language.

MS. TUPOU said that it would be a good approach to include language for a proactive program policy of referring women to the appropriate services for birth control. She opined that including such a measure would not be implicit on the state providing free birth control.

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REPRESENTATIVE SEATON maintained that without the fiscal note, the purpose will not be served nor will the number of FASD births be curbed. He pointed out the \$3.1 dollar savings per birth will offset the fiscal note for the cost of proactively providing birth control.

REPRESENTATIVE SEATON moved to adopt Amendment 1 to Conceptual Amendment 2 [text provided previously].

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REPRESENTATIVE GATTO asked for clarification as to what type of birth control is covered.

CHAIR WILSON explained that it would cover any type of birth control that did not require daily administration.

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CHAIR WILSON announced that hearing no objection, Amendment 1 to Conceptual Amendment 2 was adopted. Further she announced that hearing no objection, Conceptual Amendment 2 as amended was adopted.

[4:34:51 PM](#)

CHERYL SCOTT, Manager, Parent Support Grant, Division of Behavioral Health (DBH), Stone Soup Group, stated support for HB 312. She pointed out that non-Native mothers are not served in the Anchorage area due to the lack of programs, which skews the statistics inaccurately to demonstrate FASD as a Native issue. She stressed the need for services to be established to aid every ethnic group. Responding to a question, she explained that Providence Health Care Foundation (Providence) received funding to train a diagnostic team for the Anchorage area that could evaluate non-Native children; however, after performing three diagnosis, the Providence administration decided not to continue this program and the team was terminated. Further, she stressed the difficulty in capturing accurate information on ethnic backgrounds outside of Alaskan Natives. She reported that this is not the situation in Fairbanks, where the team is able to diagnose across the full spectrum of the population. Furthermore, the Fairbanks teams are expecting to expand and also provide diagnostic services for specific age groups.

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MICHAEL BALDWIN, Mental Health Clinician, Fetal Alcohol Spectrum Disorders (FASD), MatSu Diagnostic Team, stated support for HB 312 and the changes that have been provided in Version L.

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DIANNE MACCRAE stated support for HB 312, stressing the need to attach the mother's birth records to the child's. She related her experiences as an adoptive mother of an FASD child and the benefits she realized by having the prenatal exposure information and receiving an early diagnosis.

[4:46:22 PM](#)

RICK IANNLINO, Coordinator, Fetal Alcohol Spectrum Disorders (FASD), Juneau Diagnostic Clinic, Central Council Tlingit Indian Tribe, stated support for HB 312, and commented that the currently available FAS 101 and 201 training classes are excellent, but many health care providers are not attending. He suggested that an attendance incentive might prove helpful, and, as a follow up to training, technical modeling and coaching assistance would be beneficial. Responding to a question, he said that anyone providing health care who has not been specifically trained in the issues of FASD may relay information that is skewed and detrimental. He described FASD as an "invisible" disability, unlike someone who has a visibly evident disability. No one would ask an armless person to use the arm that he/she doesn't have, but with FASD people are routinely asked to utilize a facet of their mind that does not function in a normal capacity, he said.

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LARRY ROREM, Pastor, Shepard of the Valley Lutheran Church, provided examples of parenting an FASD adult. He also expressed concerns regarding service providers who are not adept in dealing with FASD clients, and stressed the need for appropriate training.

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REPRESENTATIVE SEATON moved to report CSHB 312, Version 24-LS0241\L, Mischel, 2/21/06, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 312(HES) was reported out of the House Health, Education and Social Services Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [4:54:46 PM](#).